

IN THE SENATE

SENATE BILL NO. 1276

BY HEALTH AND WELFARE COMMITTEE

AN ACT

RELATING TO ADVERTISING AND PLACING CHILDREN FOR ADOPTION WITHOUT A LICENSE;
AMENDING SECTION 18-1512A, IDAHO CODE, TO REVISE THE DEFINITION OF AD-
VERTISEMENT, TO CLARIFY WHAT CONSTITUTES A VIOLATION FOR ADVERTISING OR
PLACING CHILDREN FOR ADOPTION WITHOUT A LICENSE, TO PROVIDE THAT ADVER-
TISING OR PLACING CHILDREN FOR ADOPTION WITHOUT A LICENSE IS A MISDE-
MEANOR, TO PROVIDE A CRIMINAL PENALTY, TO PROVIDE THAT ADVERTISEMENTS
SHALL INCLUDE AN ISSUED LICENSE NUMBER, TO PROVIDE REQUIREMENTS FOR AD-
VERTISEMENTS BY AN OUT-OF-STATE ENTITY, TO EXCLUDE PRIVATE COMMUNICA-
TIONS BY INDIVIDUALS SEEKING TO ADOPT OR PLACE A CHILD FOR ADOPTION AND
TO MAKE A TECHNICAL CORRECTION.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 18-1512A, Idaho Code, be, and the same is hereby
amended to read as follows:

18-1512A. ADVERTISING FOR OR PLACING CHILDREN FOR ADOPTION WITHOUT
A LICENSE -- PROHIBITED ACTS. (1) Unless the context clearly requires oth-
erwise in this section, "advertisement" means communication by any public
medium, including, but not limited to, newspapers, periodicals, telephone
book listings, outdoor advertising signs, radio, television, handbills,
placards or other print, broadcast or the electronic medium or by any private
means, including letters, handbills, circulars or oral statements.

(2) No person, group of persons, agency, association, organization,
corporation, institution, center or entity ("person") shall advertise or
cause to be published for circulation or broadcast on a radio or television
station any advertisement or notice within the geographic borders of the
state of Idaho an advertisement or notice of a child or children offered or
wanted for adoption or shall offering, soliciting or promising to place, lo-
cate, dispose of or receive a child or children for adoption or hold himself
out through such advertisement or notice as having the ability to solicit,
place, locate, dispose of or receive a child or children for adoption, unless
the person or entity is a duly authorized agent, contractee or employee of
the department of health and welfare or an authorized children's agency or
institution licensed by the department of health and welfare to care for and
place children.

(3) No person shall solicit, place, locate, dispose of or receive a
child or children for adoption within the geographic borders of the state of
Idaho, unless the person is a duly authorized agent, contractee or employee
of the department of health and welfare or an authorized children's agency
licensed by the department of health and welfare.

(4) Any person who violates the provisions of subsection (2) or (3) of
this section shall be guilty of a misdemeanor. In the event of an initial ci-
tation for violation of the provisions of this section, if a person makes the

1 application required within thirty (30) days, the complaint shall be dis-
2 missed. The penalty for violation of the provisions of this section shall be
3 three hundred dollars (\$300) for each day of a continuing violation, which
4 penalty shall accrue from thirty (30) days following the initial notice of
5 violation in the event of a finding of violation.

6 (5) A violation of subsection (2) or (3) of this section is a matter af-
7 fecting the public interest for the purpose of applying chapter 6, title 48,
8 Idaho Code. A violation of subsection (2) or (3) of this section is not rea-
9 sonable in relation to the development and preservation of business. A vi-
10 olation of subsection (2) or (3) of this section constitutes an unfair or
11 deceptive act or practice in trade or commerce for the purpose of applying
12 chapter 6, title 48, Idaho Code.

13 (6) Every advertisement published after July 1, 2012, shall include the
14 department of health and welfare issued license number of the person pub-
15 lishing the advertisement.

16 (7) An out-of-state person who is not licensed to place, locate, dis-
17 pose of or receive a child or children for adoption in Idaho may publish an
18 advertisement, provided all of the following are met:

19 (a) The advertisement must pertain only to international adoption ser-
20 vices;

21 (b) The out-of-state person must be officially recognized by the United
22 States internal revenue service as a tax-exempt organization under sec-
23 tion 501(c)(3) of the Internal Revenue Code of 1986 (or any successor
24 provision of the federal tax law);

25 (c) The out-of-state person must only provide international adoption
26 services and must be covered by the intercountry adoption act of 2000;

27 (d) The out-of-state person must have a current written agreement with
28 at least one (1) person licensed by the department of health and wel-
29 fare to provide adoption services in Idaho, and such agreement must be
30 on file with the department; and

31 (e) The out-of-state person must display in the advertisement the li-
32 cense number of at least one (1) person licensed by the department of
33 health and welfare to provide adoption services in Idaho.

34 (48) Nothing herein is intended to prohibit an attorney licensed to
35 practice in the state of Idaho from advertising his or her ability to prac-
36 tice or provide services related to the adoption of children.

37 (59) Nothing herein is intended to prohibit physicians and other health
38 care providers who are licensed to practice in the state of Idaho from as-
39 sisting or providing natural and adoptive parents with medical care neces-
40 sary to initiate and complete adoptive placements.

41 (10) Nothing herein is intended to prohibit communication by private
42 means, including only written letters and oral statements, by an individual
43 seeking to adopt a child or children or by an individual seeking to place that
44 individual's child or children for adoption.